IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13155 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAVAL KESHABHAI JIMABHAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 13155 of 2003

MR TUSHAR MEHTA for Petitioner No. 1-555

MR DIPEN DESAI, LD,AGP for Respondent No. 1 & 5

MR HARIN P RAVAL for Respondent No. 3 & 4

MS JIRGA D JHAVERI for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 14/09/2004

ORAL JUDGEMENT

1. Rule. Mr.Dipen Desai, learned AGP waives service

of rule on behalf of respondents No.1 and 5, Ms.Jirga D.Jhaveri, learned advocate waives service of rule on behalf of respondent No.2 and Mr.Harin Raval, learned advocate waives service of rule on behalf of respondents No.3 and 4. With the consent of the learned advocates for the parties, the matter is taken up for final hearing today.

2. In this petition under Article 227 of the Constitution of India, the petitioners have challenged the legality and validity of the order passed by the respondent No.1 - State Government dated 4th September, 2003, passed in Revision Application No.91 of 2003 allowing the revision application preferred by the respondents No.3 and 4 and directing to cancel the licences of the petitioners which were granted by passing the resolution in the meeting held on 30.9.2002 by the APMC, Deesa, and for a further direction to permit the petitioners to trade in the market and to participate in the ensuing election of the respondent market committee as their names are already reflected in provisional and preliminary voters list from traders constituency.

3. Pursuant to the interim orders passed by this Court (Coram: Jayant Patel, J.) dated 5.9.2003, all the petitioners were permitted to cast their votes and the election is already over and the results is already declared and, therefore, the said interim order is directed to be continued as final order so far as allowing the petitioners to participate in the election is concerned.

4. Mr.Tushar Mehta, the learned advocate appearing on behalf of the petitioners has submitted that, the order passed by the revisional authority dated 4.9.2003 passed in Revision Application No.91 of 2003 is concerned, the same is absolutely illegal and against the principle of natural justice, as before passing the said order, the petitioners are not given any opportunity of being heard.

5. The aforesaid aspect is not disputed by Mr.Dipen Desai, learned AGP appearing on behalf of respondents No.1 and 5. In that view of the matter, and without going into the merits of the case, the present Special Civil Application is required to be allowed only on that ground that the order dated 4.9.2003 passed by the revisional authority passed in Revision Application No.91 of 2003 is in violation of principle of natural justice.

6. Considering the aforesaid facts and circumstances

of the case, the petition succeeds. The order passed by the revisional authority - respondent No.1 dated 4.9.2003 passed in Revision Application No.91 of 2003 is hereby quashed and set aside. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.R. Shah, J.)

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